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July 12, 2013

**VIA EMAIL, ORIGINAL TO FOLLOW BY U.S. MAIL**

Usher L. Brown, Esq.  
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111 N. Orange Avenue, Suite 2000  
P.O. Box 2873  
Orlando, Florida 32802-2873

**Re: 520 N. Interlachen Avenue, Winter Park, Florida 32789 / Capen House**

Dear Larry:

As you are aware, some controversy has arisen relating to the above-referenced home, its historic designation and whether or not the home will be demolished. As a result, numerous citizens of Winter Park have contacted my office and retained me to look into the issue of the repeal of Resolution 2091-11 which was the historic designation on the above-referenced property.

Upon review of certain public records and documents, it is clear that the Winter Park City Commission may have been under some mistaken beliefs when it improperly and wrongfully voted to repeal Resolution 2091-11.

Please note that the original historical designation for the above-referenced property started in 2006 when the historic designation was approved but the owner at the time, Ms. Malugen, did not finalize the designation as she was waiting to obtain a variance. Thereafter, although a foreclosure on the property began in 2010, Ms. Malugen finalized and completed the historic designation in August 2011. At that time, Ms. Malugen was the owner of the property and had full rights to complete the designation which had previously been approved years before. Any claim that Ms. Malugen did not have fee simple ownership of the property in August of 2011 is simply false. Even a cursory review of the court index in the foreclosure case reveals that Ms. Malugen had fee simple title until at least July 2, 2012.

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There is no dispute that the Capen House has extreme historical significance to the City of Winter Park. The home was built in 1885 by one of Winter Park's founders and has been preserved by its owners for over 120 years. It has been listed on the Florida Master Site file as a historic home from the early 1970's and has been also included in the City's survey showing Capen House as a significant historic asset.

We have reviewed the City Code and historic preservation provisions and there is no mechanism for the Winter Park City Commission to remove a property from the City's historic designation without the historic preservation board's consent. Accordingly, the rescission of the historic designation of the Capen House on September 24, 2012 is void as the Winter Park City Commission had no authority under its own code to rescind a historic designation in that manner. If the rescission vote is not set aside by the City Commission, my clients have authorized me to proceed with a declaratory and injunctive relief action in the Circuit Court in and for Orange County, Florida.

If you have any questions or comments, please do not hesitate to give me a call.

Sincerely,



Howard S. Marks

HSM/dm